

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S COMPREHENSIVE ZONING ORDINANCE NO. 00-11-01; GRANTING A SPECIFIC USE PERMIT FOR A CHILD DAY CARE LOCATED ON A TRACT OF LAND SITUATED IN THE J. DILLINGHAM SURVEY, ABSTRACT NO. 282, IN THE CITY OF FRISCO, COLLIN COUNTY, TEXAS, CONTAINING 5.722 ACRES OF LAND, MORE OR LESS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE AND COMPREHENSIVE ZONING ORDINANCE NO. 00-11-01; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas (the "City Council"), has investigated and determined that Comprehensive Zoning Ordinance No. 00-11-01 should be amended; and pursuant to a notice being duly posted according to law, conducted a public hearing wherein a request was made by Jordan Realty Advisors (the "Applicant"), to allow a Specific Use Permit for a Child Day Care on a tract of land zoned Planned Development-176-Single Family-1. The tract of land is situated in the J. Dillingham Survey, Abstract No. 282, in the City of Frisco, Collin County, Texas ("Frisco"), containing 5.722 acres of land, more or less, and being particularly described in Exhibit "A", attached hereto and incorporated herein for all purposes; and

WHEREAS, the City Council finds that Applicant has agreed to comply with all provisions of the ordinances of Frisco, including but not limited to Frisco's Comprehensive Zoning Ordinance No. 00-11-01, and has further agreed to comply with the additional restrictions set forth herein and the site plan, attached hereto as Exhibit "B" and incorporated herein for all purposes; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to grant the Specific Use Permit, and that such grant will not be detrimental to the public welfare, safety or health, and that the Specific Use Permit should be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Specific Use Permit Granted. Applicant is granted a Specific Use Permit to allow a Child Day Care on the Property, which is zoned Planned Development-176-Single Family-1.

The Property as a whole and the boundaries are more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes as if set forth verbatim (the "Property"). The general location of the Property is depicted on Exhibit "A-1", attached hereto. The Property shall be developed in compliance with the conditions expressly stated in the site plan, attached hereto as Exhibit "B", including but not limited to the size of the building and number of parking spaces reflected thereon. Additional conditions for the granting of the Specific Use Permit described in this Ordinance are as follows:

1. A maximum of 250 students may be enrolled at the Child Day Care ;

SECTION 3: Failure to Comply/Assignable and Transferable. Except as otherwise stated above, all terms of the Specific Use Permit shall be complied with prior to issuance of a certificate of occupancy. Failure to comply with any term or condition of this Ordinance and/or Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as they exist or may be amended, will result in the Specific Use Permit being declared null and void and of no force and effect. The Specific Use Permit is issued to the entity named above and is assignable and transferable.

SECTION 4: Specific Use Permits Regulations. Upon holding a properly notified public hearing, the City Council may amend, change, or rescind a specific use permit if:

1. There is a violation and conviction of any of the provisions of this Ordinance, or any ordinance of the City of Frisco, that occurs on the Property;
2. The building, premise, or land used under this Specific Use Permit are enlarged, modified, structurally altered, or otherwise significantly changed unless a separate

Specific Use Permit is granted for such enlargement, modification, structural alteration, or change;

3. Violation of any provision of the terms or conditions of this Specific Use Permit;
4. Ad valorem taxes on the Property are delinquent by more than six (6) months;
5. The Specific Use Permit was obtained by fraud or deception; or
6. As otherwise permitted by law and/or Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as it exists or may be amended.

SECTION 5: Specific Use Permit Effective Date. This Specific Use Permit shall be effective from and after the effective date of this Ordinance. Upon termination of this Specific Use Permit, the Property shall cease to be used as provided herein unless another Specific Use Permit or appropriate zoning has been obtained.

SECTION 6: Unlawful Use of Premises. It shall be unlawful for any person, firm, entity or corporation to make use of the above-referenced tract of land in some manner other than as authorized by this Ordinance or other applicable Ordinances.

SECTION 7: Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8: Savings/Repealing Clause. Frisco's Comprehensive Zoning Ordinance No. 00-11-01 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution

from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 9: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 10: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.


DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this ____ day of _____, 2009.

MAHER MASO, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

JENNY PAGE, City Secretary

APPROVED AS TO FORM:



Abernathy, Roeder, Boyd & Joplin, P.C.
CLAIRE E. SWANN, City Attorneys

Dates of Publication: _____, *Frisco Enterprise*

SUP09-0004
Custer at Stonebridge &
Children's Garden Montessori Academy
Block A, Lots 1 & 2



Exhibit "A"
Legal Description
5.722

BEING a tract of land out of the J. Dillingham Survey, Abstract No. 282, Collin County, Texas, being all of a tract of land described in Special Warranty Deed to Baptist Church Loan Corporation recorded in Instrument No. 20070423000540780, Official Public Records of Collin County, Texas and part of a tract of land described in deed to The 2478 Joint Venture recorded in Clerk's File No. 92-0014476, Land Records of Collin County, Texas, said tract being more particularly described as follows:

BEGINNING at a point in the west right-of-way line of Custer Road (F.M. 2478, a variable width right-of-way); said point being the southeast corner of said Baptist Church Loan Corporation;

THENCE departing said west right-of-way line and with the south line of said The Baptist Church Loan Corporation tract part of the way, South 89°36'54" West, a distance of 461.43 feet to a point for corner;

THENCE North 00°20'20" West, a distance of 540.48 feet to a point for corner in the south line of Lot 7, Block N, Stonelake Estates, Phase 1, an addition to the City of Frisco, Texas according to the plat recorded in Cabinet P, Page 602, Map Records of Collin County, Texas; said point being the northwest corner of said Baptist Church Loan Corporation tract;

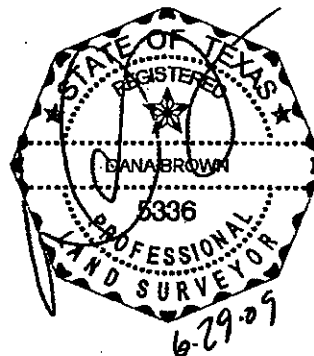
THENCE with the south line said Block N and the south line of Block P, North 89°40'26" East, a distance of 461.35 feet to a point for corner in said west right-of-way line of Custer Road;

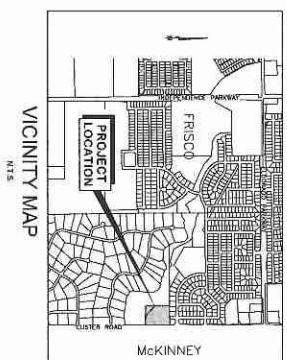
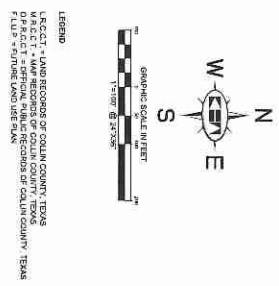
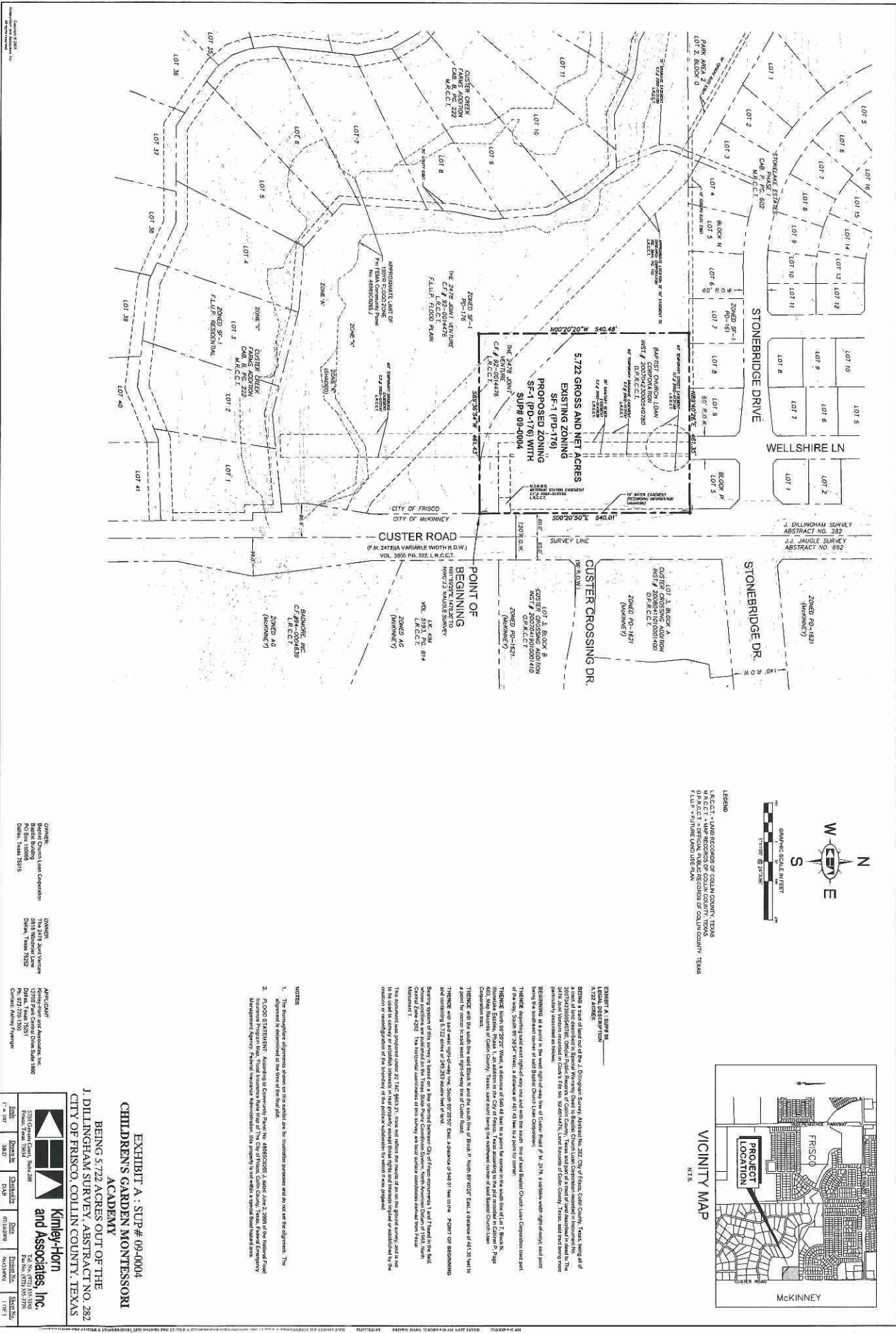
THENCE with said west right-of-way line, South 00°20'50" East, a distance of 540.01 feet to the **POINT OF BEGINNING** and containing 5.722 acres or 249,263 square feet of land.

Bearing system of this survey is based on a line oriented between City of Frisco monuments 1 and 7 found in the field, whose positions are published on the Texas State Plane Coordinate System, North American Datum of 1983, North Central Zone 4202. The horizontal coordinates of this survey are local surface coordinates derived from Frisco Monument 1.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Dana Brown
Registered Professional Land Surveyor #5336
Kimley-Horn and Associates, Inc.
5750 Genesis Court #200
Frisco, Texas 75034
972-335-3580





NOTES

1. The boundaries shown on this plat are for illustrative purposes and do not constitute a warranty. The boundaries are shown as they appear on the ground.

2. FLOOD STATEMENT: According to the Flood Insurance Rate Map (FIRM) No. 488520002, the subject property is located in Flood Zone X-1, which is an area of moderate flood hazard. The subject property is not located in a Special Flood Hazard Area.

3. The subject property is located in the City of Frisco, Texas, and is subject to the Frisco City Code, which includes provisions regarding zoning, land use, and other matters. The subject property is currently zoned SP-1 (PD-176) with SUPP 09-0004.

4. The subject property is located in the City of Frisco, Texas, and is subject to the Frisco City Code, which includes provisions regarding zoning, land use, and other matters. The subject property is currently zoned SP-1 (PD-176) with SUPP 09-0004.

EXHIBIT A: SUP# 09-0004
CHILDREN'S GARDEN MONTESSORI ACADEMY
BEING 5.722 ACRES OUT OF THE
J. DILLINGHAM SURVEY, ABSTRACT NO. 282
CITY OF FRISCO, COLLIN COUNTY, TEXAS

Kimley-Horn and Associates, Inc.
3370 Capital Circle, Suite 200
Frisco, Texas 75034
Tel: No. (972) 455-5500
Fax: No. (972) 455-5500
Email: kha@kimley-horn.com

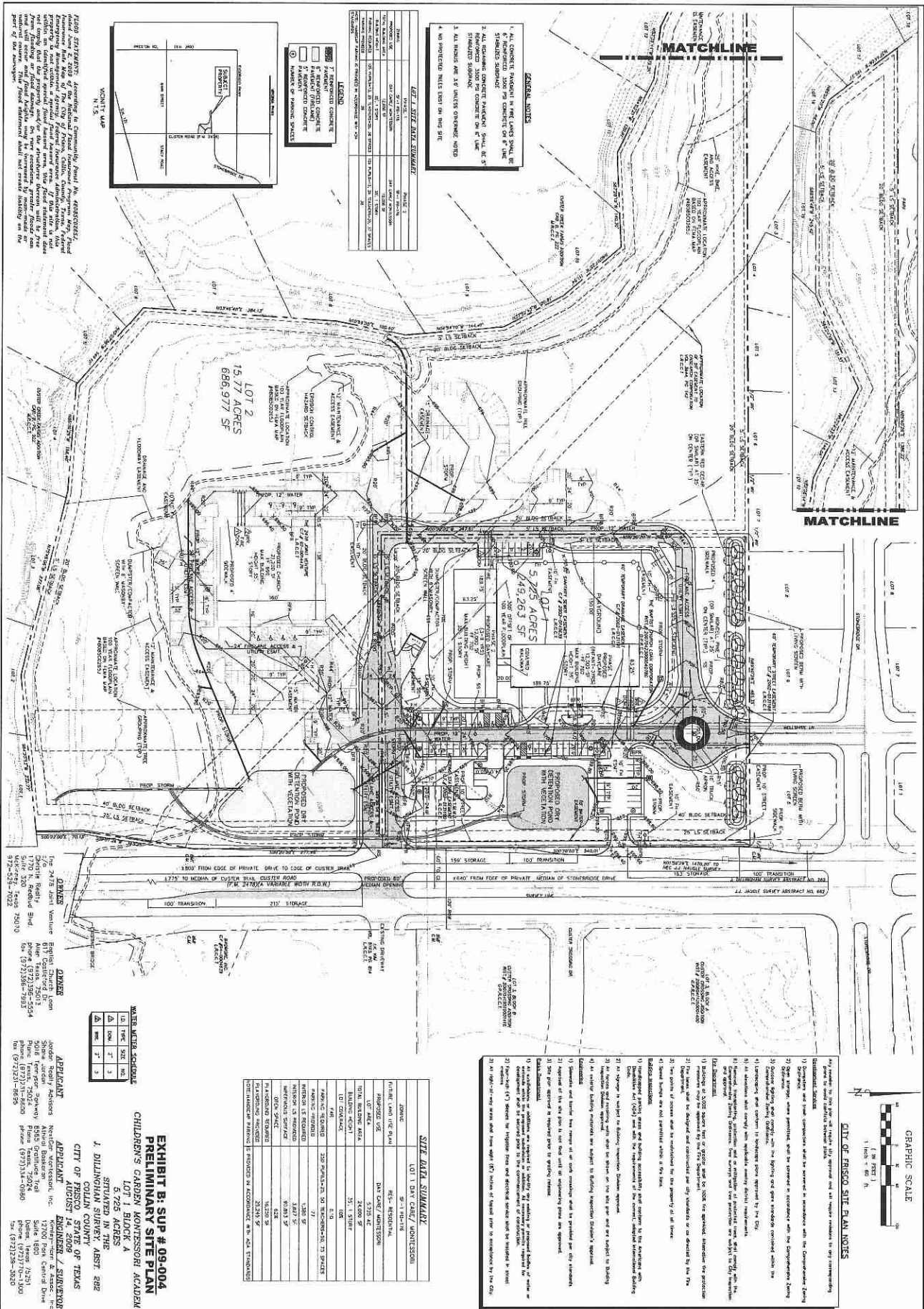


EXHIBIT B: SUP # 09-004
PRELIMINARY SITE PLAN
CHILDREN'S GARDEN MONTESSORI ACADEMY
LOT 1 BLOCK A
5.765 ACRES
SITUATED IN THE
CITY OF COLLIN COUNTY, TEXAS
J. DILLINGHAM SURVEY, ABST. 282

APPLICANT: Northern Westside, Inc.
1000 Westside Blvd., Suite 100
Frisco, Texas 75034
Phone: (972) 336-5555

ENGINEER / SURVEYOR: Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75244
Phone: (972) 336-5555

DATE: AUGUST 2009
DESIGNED BY: JGA
DRAWN BY: JGA
CHECKED BY: AMF

EXHIBIT "B"

CHILDREN'S GARDEN MONTESSORI ACADEMY
Frisco, Texas

Kimley-Horn and Associates, Inc.

12700 Park Central Drive, Suite 1800
Dallas, Texas 75244
Phone: (972) 336-5555
Fax: (972) 336-5555